

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 05-00611 WHA

Plaintiff,

v.

**ORDER DENYING DEFENDANTS'
MOTIONS FOR RECONSIDERATION**

KURT F. JOHNSON and DALE SCOTT
HEINEMAN,

Defendants.

Defendants Kurt F. Johnson and Dale Scott Heineman, via separate motions, move *pro se* for reconsideration of Court orders (Dkt. Nos. 768, 769). Defendants do not clearly state which orders they seeks to be reconsidered. Defendant Heineman adopts the arguments presented by defendant Johnson in his moving papers.

Defendants have not been granted leave to file a motion for reconsideration. Pursuant to Civil Local Rule 7-9, which applies to this matter pursuant to Criminal Local Rule 2-1, no party may notice a motion for reconsideration without first obtaining leave of Court to file the motion. Even if this Court were to construe the motions as motions for leave to file a motion for reconsideration, they do not clearly state which orders defendants seek to be reconsidered. And thus, no decision regarding reconsideration can be made.

In support of his motion, defendant Johnson argues that “multiple canons of construction counsel against the Court’s distasteful view” (Dkt. No. 768 at 5). He proceeds to discuss the doctrine of constitutional avoidance, principles of statutory construction, and the rule of lenity. It

1 is unclear to the Court how this discussion fits into defendant Johnson's argument that this Court
2 should reconsider "its previous orders" (Dkt. No. 768 at 8). Therefore, even if this Court knew
3 which orders defendants seek to be reconsidered, and were to construe this motion as a motion
4 requesting leave to file a motion for reconsideration, the discussion set forth in the motion would
5 not provide a basis for granting such a motion.

6 Defendants' motions for reconsideration are **DENIED**. Defendant Johnson's request to
7 order a response from the government is **DENIED AS MOOT**. The Clerk shall serve this order on
8 defendants Johnson and Heineman and the government.

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10 **IT IS SO ORDERED.**

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12 Dated: October 31, 2011.

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15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
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